

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Frank Staples, *et al.*,

Plaintiffs,

v.

Civil No.: No. 1:24-cv-331-LM-TSM

Governor Chris Sununu, *et al.*,

Defendants.

DEFENDANT CHARLES O’LEARY’S MOTION TO DISMISS

Defendant Charles O’Leary, in his individual capacity (“Attorney O’Leary”), by and through his attorneys, the Office of the Attorney General, submits this Motion to Dismiss:

INTRODUCTION

1. In this action, Plaintiffs Frank Staples and Kathleen Bussiere appear to allege that the defendants committed myriad violations of the federal and New Hampshire constitutions. Compl. 1–10.
2. Plaintiffs seek monetary damages for the injuries they allege. *Id.* at 9–10.
3. Plaintiffs have failed to state a claim against Attorney O’Leary upon which relief may be granted.¹
4. Plaintiffs’ claims against Attorney O’Leary are barred by prosecutorial immunity.

¹ A separate motion to dismiss has been filed on behalf of Attorney General John Formella and Governor Christopher Sununu. (ECF Doc. No. 22).

5. Accordingly, the Attorney O’Leary requests that the Court dismiss Plaintiffs’ Complaint pursuant to Federal Rules of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted.

6. Attorney O’Leary incorporates, by reference, a memorandum of law in support of this motion to dismiss, which has been contemporaneously filed with the present motion. L.R. 7.1(a)(2).

7. In light of the dispositive nature of this motion, Attorney O’Leary has not sought Plaintiffs’ concurrence. *See* L.R. 7.1(c).

WHEREFORE, Defendant O’Leary respectfully requests that this Honorable Court:

- A. Dismiss Plaintiffs’ Complaint; and
- B. Grant such other and further relief as justice may require.

Respectfully submitted,

ATTORNEY CHARLES O’LEARY,
INDIVIDUALLY

By his attorneys,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: February 18, 2025

/s/ Christina M. Wilson
Christina M. Wilson, Bar #268553
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CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2025, a copy of the foregoing was served on all counsel of record through the ECF system and sent postage prepaid, to:

Frank Staples
332 Merrimack Street
Manchester, NH, 03103

Kathleen Bussiere
178 S. Main Street Apt 3
Newton, NH 03858

/s/ Christina M. Wilson
Christina M. Wilson